



Senate

General Assembly

File No. 53

January Session, 2013

Substitute Senate Bill No. 823

Senate, March 18, 2013

The Committee on Labor and Public Employees reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING SEVERE MENTAL OR EMOTIONAL
IMPAIRMENT AND WORKERS' COMPENSATION COVERAGE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (16) of section 31-275 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2013*):

4 (16) (A) "Personal injury" or "injury" includes, in addition to
5 accidental injury that may be definitely located as to the time when
6 and the place where the accident occurred, an injury to an employee
7 that is causally connected with the employee's employment and is the
8 direct result of repetitive trauma or repetitive acts incident to such
9 employment, and occupational disease.

10 (B) "Personal injury" or "injury" shall not be construed to include:

11 (i) An injury to an employee that results from the employee's
12 voluntary participation in any activity the major purpose of which is

13 social or recreational, including, but not limited to, athletic events,
14 parties and picnics, whether or not the employer pays some or all of
15 the cost of such activity;

16 (ii) A mental or emotional impairment, unless such impairment (I)
17 arises from a physical injury or occupational disease, (II) in the case of
18 a police officer, arises from such police officer's use of deadly force or
19 subjection to deadly force in the line of duty, regardless of whether
20 such police officer is physically injured, provided such police officer is
21 the subject of an attempt by another person to cause such police officer
22 serious physical injury or death through the use of deadly force, and
23 such police officer reasonably believes such police officer to be the
24 subject of such an attempt, [or] (III) in the case of a firefighter, is
25 diagnosed as post-traumatic stress disorder by a licensed and board
26 certified mental health professional, determined by such professional
27 to be originating from the firefighter witnessing the death of another
28 firefighter while engaged in the line of duty and not subject to any
29 other exclusion in this section, or (IV) in the case of any employee, is
30 diagnosed by a licensed and board certified mental health professional,
31 determined by such professional to be originating from the employee
32 witnessing the death or maiming, or the immediate aftermath of such
33 death or maiming, of one or more human beings whose death or
34 maiming was caused by an intentional act of another human being,
35 and which is not the result of some natural cause, provided the
36 witnessing of such death or maiming was causally connected with the
37 employee's employment. As used in this clause, "police officer" means
38 a member of the Division of State Police within the Department of
39 Emergency Services and Public Protection, an organized local police
40 department or a municipal constabulary, "firefighter" means a
41 uniformed member of a municipal paid or volunteer fire department,
42 and "in the line of duty" means any action that a police officer or
43 firefighter is obligated or authorized by law, rule, regulation or written
44 condition of employment service to perform, or for which the police
45 officer or firefighter is compensated by the public entity such officer
46 serves;

47 (iii) A mental or emotional impairment that results from a personnel
48 action, including, but not limited to, a transfer, promotion, demotion
49 or termination; or

50 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
51 subdivision, "personal injury" or "injury" includes injuries to
52 employees of local or regional boards of education resulting from
53 participation in a school-sponsored activity but does not include any
54 injury incurred while going to or from such activity. As used in this
55 clause, "school-sponsored activity" means any activity sponsored,
56 recognized or authorized by a board of education and includes
57 activities conducted on or off school property and "participation"
58 means acting as a chaperone, advisor, supervisor or instructor at the
59 request of an administrator with supervisory authority over the
60 employee.

61 Sec. 2. Section 31-294h of the general statutes is repealed. (*Effective*
62 *October 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	31-275(16)
Sec. 2	<i>October 1, 2013</i>	Repealer section

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Various State Agencies	GF, TF - Cost	Indeterminate	Indeterminate

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
All Municipalities	STATE MANDATE - Cost	Indeterminate	Indeterminate

Explanation

Section 1 of the bill will result in a potential cost to the State's workers' compensation program¹ for employees with a diagnosis of mental or emotional impairment arising out of specific circumstances, which is indeterminate. The cost depends on two factors: 1) number of claims filed and 2) the severity of the claim, both of which are unknown.

The State's workers' compensation program currently covers approximately 78,090 employees².

The severity of the claim is related to the cost associated with

¹ The State's workers' compensation program is self-insured and therefore is responsible for the total cost of claims incurred as opposed to a fully insured policy where the state pays a set premium irrespective of claim costs.

² In general, any individual who receives a paycheck from the state is eligible to file a workers' compensation claim and therefore, for the purposes of this bill are considered employees. This figure reflects the total number of individuals who were eligible to receive a paycheck as of February 13, 2013, excluding student workers. (Source: CoreCT)

providing necessary medical treatment and indemnity benefits. Unlike physical impairments, the diagnosis and treatment duration for emotional impairments is both difficult and highly variable. By way of example, Post-Traumatic Stress Disorder (PTSD) has two common forms of treatment: 1) psychotherapy (“talk therapy”) and 2) pharmacotherapy³, most commonly involving the prescribing of antidepressants. However, the ultimate cost of treatment depends on the duration of treatment and the medication prescribed which is determined on an individual basis.

The indemnity portion of the benefit is determined by two factors: 1) how long the individual is out of work and 2) whether the individual is classified as having a permanent partial disability (PPD). In the case of an emotional impairment claim, if the individual is determined to have a PPD, the individual’s brain is considered impaired. Pursuant to CGS 31-308 a PPD involving the brain carries the maximum potential indemnity value⁴.

Lastly, it is important to note once an injury is identified as a work related injury and covered under the workers’ compensation program any subsequent injury or impairment which can be causally linked to the initial injury is also covered by workers’ compensation, resulting in a wide range of potential per claim costs.

Emotional impairment, in the form of long term PTSD, has been linked to other physical health issues including but not limited to cardiovascular disease⁵. In the event an individual receiving workers’ compensation coverage for a PTSD or other emotional impairment claim, develops a physical ailment whose etiology is linked to their emotional distress, the state will be liable for the cost of treating the employee’s related physical condition. The fiscal impact will depend

³ Schurr, P. *Treatments for PTSD and Understanding the Evidence*. PTSD Research Quarterly, National Center for PTSD (US Dept. of Veterans Affairs) 2008; Vol. 10 No. 3.

⁴ The actual benefit is a variable percentage of up to 520 weeks of compensation. It is unlikely an individual would get the full 520 weeks and be classified as PPD.

⁵ Coughlin, S. *Post-Traumatic Stress Disorder and Cardiovascular Disease*, The Open Cardiovascular Medicine Journal, 2011, 5, 164-170.

on the condition and course of treatment.

Municipal Impact

The bill will result in a potential cost for municipalities as it makes all municipal employees eligible for workers' compensation coverage for mental or emotional impairment.

It is not known how many mental or emotional impairment claims are filed in a given year by municipal employees. Similar to the state, the cost will depend on 1) number of claims filed and 2) the severity of the claims.

There are approximately 153,000 local government employees in Connecticut⁶.

The bill is likely to result in increased premium costs for fully-insured municipalities when municipalities enter into new contracts after October 1, 2013 when the new coverage requirements become effective.

Section 2 of the bill is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

⁶ It is unclear what percentage of these employees are eligible for workers' compensation benefits. Source: State Department of Labor, Office of Research, as of December 2012.

OLR Bill Analysis**sSB 823*****AN ACT CONCERNING SEVERE MENTAL OR EMOTIONAL IMPAIRMENT AND WORKERS' COMPENSATION COVERAGE.*****SUMMARY:**

This bill makes an employee eligible for workers' compensation benefits if:

1. the employee's employment caused the employee to witness the death or maiming, or immediate aftermath of the death or maiming, of at least one person;
2. the death or maiming was caused by an intentional act of another person, and not a natural cause; and
3. a licensed and board certified mental health professional diagnoses the employee with a mental or emotional impairment and determines that the impairment originated from the employee witnessing the death or maiming, or its immediate aftermath.

Except for special circumstances related to police officers and firefighters, current law does not provide workers' compensation benefits for mental or emotional impairments unless they stem from a work-related physical injury or occupational disease.

The bill also extends all workers' compensation benefits to (1) police officers who suffer a mental or emotional impairment caused by using, or being subjected to, deadly force in the line of the duty and (2) firefighters diagnosed with post-traumatic stress disorder caused by witnessing the death of another firefighter in the line of duty. Current law limits the benefits in these instances to treatment by a psychologist or psychiatrist approved by the Workers' Compensation Commission.

EFFECTIVE DATE: October 1, 2013

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 4 (02/28/2013)